



Chairman

Bill Horn
County Board of
Supervisors

July 6, 2015

Vice Chairman

Sam Abed
Mayor
City of Escondido

TO: Local Agency Formation Commission
FROM: Executive Officer
Director, Legislative Research

8

Members

Dianne Jacob
County Board of
Supervisors

SUBJECT: Legislative Status Report

Andrew Vanderlaan
Public Member

This is the monthly Legislative update report for July 6, 2015, intended to provide the Commission the status of the activities of state legislation in the first year of the 2015–16 Legislative Session. As reported at the May 2015 Commission Meeting, the LAFCO staff have been monitoring several bills actively with CALAFCO.

Lorie Zapf
Councilmember
City of San Diego

Lorraine Wood
Councilmember
City of Carlsbad

The LAFCO staff report covers six bills of concern and two other bills that had recently been introduced. Staff identified four more bills for taking positions on and LAFCO proposed a position on several of the bills as indicated in the following:

Jo MacKenzie
Vista Irrigation District

AB 851 (Mayes R) Local government: organization: disincorporations

Vacant
Special District

Alternate Members

A letter of Support was mailed to the bill author.

Greg Cox
County Board of
Supervisors

SB 239 (Hertzberg D) Cities and districts: extended fire services

Chris Cate
Councilmember
City of San Diego

This bill would add requirements to have the applicant prepare a detailed plan of services and financial study for the proposed agreement and subject the process to a CEQA review. It would also require that labor groups representing the involved employees of the agencies be notified of the proposed agreement prior to it being approved by the applicant agency. This would place a serious impediment into the review and approval process limiting the powers of commission not currently in the Government Code.

Racquel Vasquez
Councilmember
City of Lemon Grove

A letter of Opposition was mailed to the bill author.

Ed Sprague
Olivenhain Municipal
Water District

AB 1532 (Committee on Local Government) Local government: omnibus bill

Harry Mathis
Public Member

This is the annual Omnibus Bill and a letter of Support was mailed to the Committee on Local Governance.

Executive Officer

Michael D. Ott

Legal Counsel

Michael G. Colantuono

A new bill was introduced in late May that is of concern to San Diego LAFCO:

Budget Trailer Bill 825: Authorize Consolidation of Small Water Systems

This bill was introduced at the request of the Governor's office and was passed by the Legislative Budget Conference Committee and is currently pending consideration by the full Legislature. This budget trailer bill would provide authorization for the State Water Resources Control Board to make findings, hold public hearings and take action to consolidate small water systems of any type with other entities to resolve failure of water systems, violations of water quality and to address needs of disadvantaged communities being impacted by the current four year drought. The proposal establishes new powers and authority within the Water Resources Control Board to initiate consolidation of water systems and bypasses the Cortese-Knox-Hertzberg Act.

LAFCO staff determined that this bill was not in concert with the Commission adopted Legislative Guidelines and a **letter of Opposition** was sent to each legislator in San Diego County and to the Governor's office.

LAFCO staff will continue to monitor possible legislative proposals for 2015 as the legislative session proceeds forward. Therefore, it is

RECOMMENDED: That your Commission,

Receive, discuss, and provide direction, as necessary, on the attached Legislative Status Report.

Respectfully submitted,

MICHAEL D. OTT
Executive Officer

HARRY EHRLICH
Director, Legislative Research

MDO:HE:trl

Attachments

Legislative Tracking Report: June 17, 2015
Bills: SB 239 as amended and Trailer Bill 825

SAN DIEGO LAFCO
LEGISLATION TRACKING REPORT
JUNE 17, 2015

Budget Trailer Bill 825: Authorize Consolidation of Small Water Systems

Introduced: May 28, 2015 by the Governor's Office via State Legislative Counsel

Status: Passed by the Legislative Budget Conference Committee and pending Consideration by the full Legislature

Summary: This budget trailer bill would provide authorization for the State Water Resources Control Board to make findings, hold public hearings and take action to consolidate small water systems of any type to other entities to resolve failure of water systems, violations of water quality and to address needs of disadvantaged communities being impacted by the current four year drought. The proposal establishes new powers and authority within the Water Resources Control Board to initiate consolidation of water systems and bypass the Cortese-Knox-Hertzberg Act process via a commission within each affected county area.

Proposed San Diego LAFCO Staff Position: **Oppose; Letter Sent 6/11/2015**

CALAFCO Position: **Oppose**

Subject: Consolidation of Water Systems

San Diego LAFCO Analysis: This bill proposes to provide the State Water Resources Control Board (SWRCB) and Department of Water Resources (DWR) authority to determine when and how to propose consolidation of public or private water systems that are determined by the SWRCB to be failing. The bill proposes that DWR will identify the costs to correct the conditions and compensate the receiving entity for their costs and indemnify their actions of taking over management and operations of the failing system, and to take other steps as deemed necessary. A LAFCO would be directed to cooperate to implement whatever governance changes were identified to complete the consolidation.

CALAFCO Comments: CALAFCO engaged the proponents as part of a coalition of local government groups to oppose this late proposed action in the Budget Trailer Bill (825) process. Attempts to provide amended language to address the deficiencies of the proposed law were met with very minimal cooperation and it has been stated that this will be approved as part of the follow up bills to implement the approved FY Budget. Letters of opposition to all legislators were sent and some votes of opposition have occurred but the bill passed the Budget Conference Committee and is pending final consideration as of June 17, 2015.

SB 25 (Roth D): Local government finance: property tax revenue allocation: vehicle license fee adjustments

Introduced: December 1, 2014

Status: Passed the Senate 6/1/15; In the Assembly for Referral to Committee on Local Government

Summary: This bill would modify specified reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2014-2015 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation. This bill contains other related provisions and other existing laws.

San Diego LAFCO Position: **Support Letter sent March 12, 2015**

CALAFCO Position: **Support**

Subject: Financial Viability of Agencies

San Diego LAFCO Analysis: This bill proposes to reinstitute the VLF funds to four cities that incorporated between 2004 and 2012 and lost funding in the FY 2012 due to a change by the budget ending the VLF funds to new cities or annexed inhabited areas to cities. No backfilling of lost revenues is proposed in this bill.

CALAFCO Comments: Identical to SB 69 (Roth) from 2014, the bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue, but the bill does reinstate future payments beginning in the 2014/15 year for cities that incorporated between January 1, 2004 and January 1, 2012.

AB 3 (Williams D): Isla Vista Community Services District

Introduced: December 1, 2014

Status: Passed the Assembly 6/3/15; In the Senate for Rules Assignment

Summary: This bill would require for the Santa Barbara Board of Supervisors to place the question of establishing the District on the next countywide election ballot; establish the necessary authority for the creation of the Isla Vista Community Services District within the unincorporated area of Santa Barbara County, and would make legislative findings and declarations relating to the powers of the District.

San Diego LAFCO position: **Watch**

CALAFCO Position: **Oppose Unless Amended**

Subject: LAFCo Administration, Special District Powers

San Diego LAFCO Analysis: This bill would establish the Isla Vista Community Services District in Santa Barbara County to provide various services. The Santa Barbara County LAFCO is working with the author on details of the issues and proposal.

CALAFCO Comments: As amended, this bill gives legislative authority for an election to consider the creation of the Isla Vista Community Services District (CSD). This authority would completely bypass the LAFCO process in the creation of this special district. CALAFCO issued a letter of Oppose Unless Amended on April 4, 2015.

AB 168 (Maienschein R): Local government finance

Introduced: January 22, 2015

Status: Bill dead due to not passing out of committee.

Summary: Current law requires the county auditor, in the case in which a qualifying city becomes the successor agency to a special district as a result of a merger with that district as described in a specified statute, to additionally allocate to that successor qualifying city that amount of property tax revenue that otherwise would have been allocated to that special district pursuant to general allocation requirements. This bill would make nonsubstantive changes to the provision pertaining to property tax revenue allocations to a qualifying city that merges with a special district.

San Diego LAFCO Position: Watch

CALAFCO Position: Monitor

Subject: Tax Allocation

San Diego LAFCO Analysis: This is a spot bill for future consideration of legislation if needed.

AB 402 (Dodd D): Local agency services: contracts and out of area service extensions

Introduced: February 19, 2015

Status: Amended and passed Assembly on 5/28/15; In Senate for referral to Committee on Governance & Finance

Summary: As amended, would establish a pilot program in three counties; Napa, Sonoma and San Bernardino, to allow a local agency formation commission to authorize a city or district to provide new or extended services outside its jurisdictional boundaries to support existing or planned uses involving public or private properties, subject to approval at a publicly noticed hearing where the commission makes specified determinations. The bill would also make technical and conforming changes.

Proposed San Diego LAFCO Position: Watch

CALAFCO Position: None at this Time

Subject: CKH General Procedures, LAFCO Administration, Service Reviews/Spheres

CALAFCO Comments: As written, this bill would expand the three LAFCo's existing authority to approve new and extended services beyond agencies' spheres of influence inclusive of public health and safety threats, only if LAFCo can make three findings at noticed public hearings. These findings involve determining the extension: (1) was evaluated in a municipal service review; (2) will not result in adverse impacts on open-space and agricultural lands or growth; and (3) a later change of organization is not expected or desired based on local policies. Further, the bill clarifies LAFCo's sole authority in determining the application of the statute, and deemphasizes the approval of contracts and emphasizes the approval of service extensions. This is not a CALAFCO sponsored bill. It is reported that Sonoma LAFCO does not want to be included in the bill.

AB 448 (Brown D): Local government finance: property tax revenue allocations: vehicle license fee adjustments

Introduced: February 23, 2015

Status: Passed Assembly on 6/2/15 and in Senate referred to Committee on Governance & Finance

Summary: Current property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction shall be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. This bill would modify these reduction and transfer provisions, for the 2015-16 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

Proposed San Diego LAFCO Position: Support

CALAFCO Position: Support

Subject: Financial Viability of Agencies, Tax Allocation

CALAFCO Comments: As introduced, this bill is identical to AB 1521 (Fox) from last year. This bill would reinstate the VLF payment (through ERAF) and changes the way that the growth in the VLF adjustment amount (property tax in lieu of VLF) is calculated starting in FY 2015-16 to include the growth of assessed valuation, including in an annexed area, from FY 2004-05 to FY 2015-16. Beginning in FY 2016-17, the VLF adjustment amount would be the jurisdiction's annual change in the assessed valuation. This would apply to newly annexed inhabited territories to cities.

AB 851 (Mayes R): Local government: organization: disincorporations

Introduced: February 26, 2015

Status: Amended and Passed Assembly 5/22/15; In Senate referred to Committee on Governance & Finance

Summary: This bill would, in the case of a disincorporation or reorganization that includes a disincorporation, require the plan for services to include specific provisions, including, among others, an enumeration and description of the services currently provided by the city proposed for disincorporation and an outline of current retirement obligations, as specified. This bill contains other related provisions and other existing laws.

Proposed San Diego LAFCO Position: Support, Letter Sent

CALAFCO Position: Sponsor

Subject: CKH General Procedures, Disincorporation/dissolution

San Diego LAFCO Analysis: Staff has completed a preliminary analysis of the proposed disincorporation statutory changes. The proposal uses the incorporation provisions as a template to propose changes in the disincorporation process. Several of the key proposals in the bill include: (1) Clarifies the expectation for assignment of responsibility for debt that will continue in existence after disincorporation; (2) Establishes the parameters and requirements for the submission of the Plan for Service for a disincorporation proposal which outlines existing services, the proponent's plan for the future of those services, and whether or not a bankruptcy proceeding has been undertaken; (3) Establishes the responsibilities of LAFCOs in preparing a Comprehensive Fiscal Analysis for disincorporations, the determination of the transfer of property tax revenues previously received by the proposed disincorporating City, and the determination of the transfer of debt to a successor agency or agencies. The bill retains LAFCOs existing authority to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation. There is a working group of local government groups discussing the proposed bill and providing comments to CALAFCO.

CALAFCO Comments: Sponsored by CALAFCO. As amended, this bill addresses the long-outdated statutes relating to disincorporation. Although many other areas of CKH have been updated over the past 52 years, the areas pertaining to disincorporations remain in their original format as written in 1963.

AB 1532 (Committee on Local Government) Local government: omnibus bill

Introduced: March 23, 2015

Status: Amended and Passed the Assembly 5/28/15; In Senate Referred to Committee on Local Governance & Finance

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, requires a local agency formation commission to notify specified state agencies having oversight or regulatory responsibility over, or a contractual relationship with, a local health care district when a proposal is made for any of specified changes of organization affecting that district. This bill would update obsolete references to a "hospital" district and replace outdated references to the State Department of Health Services with references to the State Department of Public Health and the State Department of Health Care Services.

Proposed San Diego LAFCO Position: **Support, Letter Sent**

CALAFCO Position: **Sponsor**

Subject: CKH General Procedures

CALAFCO Comments: This is the annual Omnibus bill for the Cortese-Knox-Hertzberg Reorganization Act of 2000. This bill makes nonsubstantive technical clean-up corrections to the Act.

SB 239 (Hertzberg D): Cities and districts: extended fire services

Introduced: February 17, 2015

Amended: May 28, 2015

Status: Passed the Senate; In Assembly referred to Committee on Local Government

Summary: Current law requires the executive officer of a local agency formation commission, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, to determine whether the request is complete and acceptable for filing, as specified. This bill would extend the period within which the executive officer is required to make that determination to 45 days. As amended this bill would require an agency making application to provide fire services via contract or agreement outside of its boundaries to prepare a Finance Plan and to make notification of a public hearing to consider the proposed contract or agreement prior to submitting the application to LAFCO. The bill was amended to remove the labor group concurrence language.

Proposed San Diego LAFCO Position: **Oppose, Letter Sent**

CALAFCO Position: **Changed to No Position on June 5, 2015**

Subject: CKH General Procedures, Municipal Services

San Diego LAFCO Analysis: This bill as amended would add requirements to the processing of proposals to a commission for contract agreements for Fire Services including prior concurrence by labor groups with terms of the contract or a notification of a public hearing at least thirty days in advance. If a State agency, approval by the department head and Department of finance would be required. The sponsor of the bill is the Professional Firefighters Association and they have not agreed to take additional amendments requested by CALAFCO. For San Diego LAFCO staff, the basic principle of local agency authority to enter into contracts is being abridged by the additional requirements has not been resolved.

CALAFCO Comments: According to the author's office, this bill is to correct prior issues whereby contracts for services have been approved that do not fully consider the needs of and impacts upon labor members and contract costs for participating agencies. Several meetings with the sponsors have resulted in some amendments addressing concerns with the bill language but issues of concern remain.

SB 184 (Committee on Governance and Finance): Local government: omnibus bill

Introduced: February 9, 2015

Status: Passed Senate on 5/18/15 and In Assembly Committee on Local Governance

Summary: The annual Senate Omnibus Bill makes non-policy type amendments or clarifications to the various government codes. Current law requires the legislative body of a local entity to annually file with the auditor a list of lots or parcels of land subject to specified fees or charges for water, sanitation, storm drainage, or sewerage system services and facilities and the amounts of the installments of the fees or charges to be entered against the affected lots or parcels of land. Current law requires the auditor to enter on the assessment roll the amounts of installments of these fees or charges. Current law defines the auditor, for the purposes of these provisions, as the financial officer of the local entity. This bill would clarify that the above-described provisions relating to the authority and duties of the auditor apply only to the county auditor. The bill would also make technical, nonsubstantive changes to these provisions.

Proposed San Diego LAFCO Position: Watch

CALAFCO Position: Watch

San Diego LAFCO Analysis: The Senate Omnibus Bill contains non-policy type amendments to the various government codes outside of the Cortese–Knox–Hertzberg Act. It is usually amended later in the legislative session to add other proposals being reviewed by stakeholders; LAFCO staff will continue to monitor the bill until it is ready for hearing to make a recommendation on it.

CALAFCO Comments: This bill is the Senate Governance & Finance Committee's annual Omnibus Bill. This bill is intended to make technical, non-substantive changes to the Government Code outside of CKH.

SB 272 (Hertzberg D): The California Public Records Act: local agencies: Catalog

Introduced: February 19, 2015

Last Amended: April 6, 2015

Status: June 23, 2015—In Assembly Judiciary Committee for hearing.

Summary: Would require each local agency, in implementing the California Public Records Act, to create a catalog of enterprise systems, as defined, to make the catalog publicly available upon request in the office of the clerk of the agency's legislative body, and to post the catalog on the local agency's Internet Web site, if there is one. The bill would require the catalog to disclose a list of the enterprise systems utilized by the agency, and, among other things, the current system vendor and product. Because the bill would require local agencies to perform additional duties, it would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

San Diego LAFCO Proposed Position: Watch

CALAFCO Position: Watch

Subject: LAFCo Administration, Public Records Act

CALAFCO Comments: As written, this bill requires all local agencies (including LAFCo) to create a catalog of enterprise systems, as defined, to make the catalog publicly available upon request in the office of the clerk of the commission, and to post the catalog on commission's Internet Web site. This is an unfunded mandate with unknown costs to meet the intent of the bill. It is not clear how frequently the data would need to be collected and updated.

AMENDED IN ASSEMBLY JUNE 17, 2015

SENATE BILL

No. 88

Introduced by Committee on Budget and Fiscal Review

January 9, 2015

~~An act relating to the Budget Act of 2015.~~ *An act to add Sections 116680, 116681, 116682, and 116684 to the Health and Safety Code, to add and repeal Sections 21080.08, 21080.45, and 21080.46 of the Public Resources Code, and to amend Sections 375, 375.5, 377, 1058.5, 1552, 1846, 5103, and 5104 of, to add Sections 377.5, 79708.5, and 79716.5 to, and to add Article 3 (commencing with Section 1840) to Chapter 12 of Part 2 of Division 2 of, the Water Code, relating to water, and making an appropriation therefor; to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

SB 88, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2015.~~ *Water.*

(1) Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Water Resources Control Board various responsibilities and duties. Existing law requires the state board to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the California Safe Drinking Water Act, and to enforce provisions of the federal Safe Drinking Water Act. Existing law prohibits a person from operating a public water system unless the person first submits an application to the state board and receives a permit issued by the state board, as specified.

This bill would authorize the state board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The bill would require the state board, prior to ordering consolidation or extension of service, to conduct an initial public meeting and a public hearing and to make specified findings. The bill would limit the liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, as specified.

(2) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts certain projects from its requirements.

This bill would, until January 1, 2017, or a specified date, whichever is earlier, exempt from CEQA certain groundwater replenishment projects.

This bill would, until July 1, 2017, exempt from CEQA the development and approval of building standards by state agencies for recycled water systems.

This bill would, with specified exceptions and until July 1, 2017, or a specified date, whichever is later, exempt from CEQA the adoption of an ordinance to impose stricter conditions on the issuance of well permits or changes in the intensity of land use that would increase demand on groundwater.

(3) The California Constitution declares that the general welfare of the state requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, and that the right to the use of water does not extend to the waste or unreasonable use, method of use, or method of diversion of water. Existing law

requires the state board to take all appropriate proceedings or actions to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this state. Existing law states the intent of the Legislature that the state take vigorous action to enforce the terms and conditions of permits, licenses, certifications, and registrations to appropriate water, to enforce state board orders and decisions, and to prevent the unlawful diversion of water.

This bill would, commencing January 1, 2016, require a person who diverts 10 acre-feet of water per year or more under a permit or license to install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage, as specified, and with certain exceptions. This bill would require the permittee or licensee to maintain a record of all diversion monitoring and the total amount of water diverted and submit these records to the state board, as prescribed. This bill would require a person who diverts water under a registration, permit, or license to report to the state board, at least annually. This bill would authorize the state board to adopt regulations requiring measurement and reporting of water diversion and use by specified persons and would require that the initial regulations be adopted as emergency regulations and that these emergency regulations remain in effect until revised by the state board. This bill would exempt from CEQA the adoption of the initial regulations by the state board.

(4) Existing law authorizes a person or entity in violation of a term or condition of a permit, license, certificate, or registration issued by, an order adopted by, or certain emergency regulations adopted by, the state board to be civilly liable for an amount not to exceed \$500 for each day in which the violation occurs.

This bill would expand this civil liability to any violation of any regulation adopted by the state board.

Existing law makes this civil liability applicable only in a critically dry year immediately preceded by 2 or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions.

This bill would eliminate this requirement.

(5) Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the state board a statement of diversion and use, and to include specified information. Existing law requires supplemental statements of diversion and use to

be filed at 3-year intervals prior to July 1 of the year next succeeding the end of each interval, and requires, if there is a change in the name or address of the person diverting water, a supplemental statement be filed with the state board that includes the change. Existing law provides that the making of a material misstatement in connection with these provisions is a misdemeanor punishable as prescribed.

This bill would require supplemental statements of diversion and use to be filed annually prior to July 1, as provided. By expanding the definition of a crime, this bill would impose a state-mandated local program.

Existing law requires each statement of diversion and use, on and after January 1, 2012, to include monthly records of water diversions using best available technologies and best professional practices. Existing law prohibits this requirement from being construed to require the implementation of technologies or practices by a person who provides to the state board documentation demonstrating that the implementation of those practices is not locally cost effective.

This bill would require each statement to include at least monthly records of water diversions and would eliminate the above-described prohibition.

(6) Under existing law, emergency regulations of the state board are not subject to review by the Office of Administrative Law if the state board adopts findings that the emergency regulations are adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water to promote wastewater reclamation, or to promote water conservation, and that the emergency regulations are adopted in response to conditions which exist, or are threatened, in a critically dry year immediately preceded by 2 or more consecutive dry or critically dry years. Under existing law, a person who violates an emergency regulation adopted by the state board pursuant to these provisions or violates certain cease and desist orders relating to the enforcement of water rights may be liable for specified amounts. Revenues generated from these penalties are deposited into the Water Rights Fund, which are available, upon appropriation, for specified purposes.

This bill would require that a civil liability imposed for a violation of an emergency conservation regulation, as defined, that is adopted pursuant to these provisions, or a violation of a cease and desist order of that emergency conservation regulation, be deposited, and separately accounted for, in the Water Rights Fund. The bill would require those

funds to be available, upon appropriation by the Legislature, for water conservation activities and programs.

(7) Existing law authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to, by ordinance or resolution, adopt and enforce a water conservation program to reduce the quantity of water used for the purpose of conserving the water supplies of the public entity. Existing law provides that a violation of a requirement of a water conservation program is a misdemeanor punishable by imprisonment in the county jail for not more than 30 days, or by fine not exceeding \$1,000, or both.

This bill would provide that a court or public entity may hold a person civilly liable in an amount not to exceed \$10,000 for a violation of a water conservation program ordinance or resolution, or certain emergency regulations adopted by the state board. This bill would prohibit the civil liability assessed by a court or public entity for the first violation by a residential water user from exceeding \$1,000, except as specified. This bill would provide that commencing on the 31st day after the public entity has notified the person of the violation, the person additionally may be civilly liable for an amount not to exceed \$10,000 plus \$500 for each additional day on which the violation continues. This bill would require civil liability imposed pursuant to these provisions to be paid to the public entity and to be expended solely for the purposes of the water conservation program. In addition to these remedies, this bill would authorize a public entity to enforce water use limitations by a volumetric penalty in an amount established by the public entity.

(8) Existing law, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, approved by the voters as Proposition 1 at the November 4, 2014, statewide general election, authorizes the issuance of general obligation bonds in the amount of \$7,545,000,000 to finance a water quality, supply, and infrastructure improvement program. The act requires each state agency that receives an appropriation from the funding made available by the act to administer a competitive grant or loan program under the act's provisions to develop and adopt project solicitation and evaluation guidelines before disbursing the grants or loans. The act requires the Secretary of the Natural Resources Agency to publish and post on the Natural Resources Agency's Internet Web site a list of expenditures pursuant to the act not less than annually, as prescribed, and to post on that Internet Web

site the guidelines submitted by state agencies and the secretary's verification that the guidelines are consistent with applicable statutes and the purposes of the act.

This bill would require the secretary to post on the Natural Resources Agency's Internet Web site information on changes to project timelines and project spending, in order to facilitate oversight of funding and projects.

The act requires each state agency that receives an appropriation of funding made available by the act to be responsible for establishing metrics of success and reporting the status of projects and all uses of the funding on the state's bond accountability Internet Web site.

This bill would require each state agency that receives an appropriation of funding made available by the act to evaluate the outcomes of projects, report this evaluation on the state's bond accountability Internet Web site, and to hold a grantee of funds accountable for completing projects funded by the act on time and within scope.

(9) The bond act provides that the sum of \$810,000,000 is to be available, upon appropriation by the Legislature, for expenditures on, and competitive grants and loans to, projects that are included in and implemented in an adopted integrated regional water management plan and respond to climate change and contribute to regional water security. The bond act authorizes the use of \$100,000,000 of those funds for direct expenditures, and for grants and loans, for certain water conservation and water use efficiency plans, projects, and programs. Existing law establishes the CalConserve Water Use Efficiency Revolving Fund and provides that the moneys in the fund are available to the Department of Water Resources, upon appropriation by the Legislature, for the purpose of water use efficiency projects. Existing law requires moneys in the fund to be used for purposes that include, but are not limited to, at or below market interest rate loans to local agencies, as defined, and permits the department to enter into agreements with local agencies that provide water or recycled water service to provide loans.

Existing law transferred to the fund the sum of \$10,000,000 of the proceeds of these bonds for water conservation and water use efficiency projects and programs to achieve urban water use targets. Existing law requires the department to use \$5,000,000 for a pilot project for local agencies to provide water efficiency upgrades to eligible residents and requires the department to use the other \$5,000,000 for local agencies

to provide low-interest loans to customers to finance the installation of onsite improvements to repair or replace, as necessary, cracked or leaking water pipes to conserve water.

This bill would appropriate the sum of \$10,000,000 available in the fund from the proceeds of the bond act for the purpose of these provisions.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(11) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2015.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 116680 is added to the Health and Safety
2 Code, to read:

3 116680. The Legislature finds and declares as follows:

4 (a) It is the policy of the state to encourage orderly growth and
5 development, which are essential to the social, fiscal, and economic
6 well-being of the state. The Legislature recognizes that the logical
7 formation, consolidation, and operation of water systems is an
8 important factor in promoting orderly development and in
9 balancing that development against sometimes competing state
10 interests of discouraging urban sprawl, preserving open space
11 and prime agricultural lands, and efficiently extending other
12 government services. Therefore, the policy of the state should be
13 affected by the logical formation, consolidation, and operation of
14 water systems.

15 (b) The powers set forth in Section 116682 for consolidation of
16 water systems are consistent with the intent of promoting orderly
17 growth.

18 SEC. 2. Section 116681 is added to the Health and Safety Code,
19 to read:

1 116681. *The following definitions shall apply to this section*
2 *and Sections 116682 and 116684:*

3 (a) *“Adequate supply” means sufficient water to meet residents’*
4 *health and safety needs.*

5 (b) *“Affected residence” means a residence reliant on a water*
6 *supply that is either inadequate or unsafe.*

7 (c) *“Consistently fails” means a failure to provide an adequate*
8 *supply of safe drinking water.*

9 (d) *“Consolidated water system” means the public water system*
10 *resulting from the consolidation of a public water system with*
11 *another public water system, state small water system, or affected*
12 *residences not served by a public water system.*

13 (e) *“Consolidation” means joining two or more public water*
14 *systems, state small water systems, or affected residences not*
15 *served by a public water system, into a single public water system.*

16 (f) *“Disadvantaged community” means a disadvantaged*
17 *community, as defined in Section 79505.5 of the Water Code, that*
18 *is in an unincorporated area or is served by a mutual water*
19 *company.*

20 (g) *“Extension of service” means the provision of service*
21 *through any physical or operational infrastructure arrangement*
22 *other than consolidation.*

23 (h) *“Receiving water system” means the public water system*
24 *that provides service to a subsumed water system through*
25 *consolidation or extension of service.*

26 (i) *“Safe drinking water” means water that meets all primary*
27 *and secondary drinking water standards.*

28 (j) *“Subsumed water system” means the public water system,*
29 *state small water system, or affected residences not served by a*
30 *public water system consolidated into or receiving service from*
31 *the receiving water system.*

32 *SEC. 3. Section 116682 is added to the Health and Safety Code,*
33 *to read:*

34 116682. (a) *Where a public water system, or a state small*
35 *water system within a disadvantaged community, consistently fails*
36 *to provide an adequate supply of safe drinking water, the State*
37 *Water Resources Control Board may order consolidation with a*
38 *receiving water system as provided in this section and Section*
39 *116684. The consolidation may be physical or operational. The*
40 *State Water Resources Control Board may also order the extension*

1 of service to an area that does not have access to an adequate
2 supply of safe drinking water so long as the extension of service
3 is an interim extension of service in preparation for consolidation.
4 The State Water Resources Control Board may set timelines and
5 performance measures to facilitate completion of consolidation.

6 (b) Prior to ordering consolidation or extension of service as
7 provided in this section, the State Water Resources Control Board
8 shall do all of the following:

9 (1) Encourage voluntary consolidation or extension of service.

10 (2) Consider other enforcement remedies specified in this article.

11 (3) Consult with, and fully consider input from, the relevant
12 local agency formation commission regarding the provision of
13 water service in the affected area, the recommendations for
14 improving service in a municipal service review, and any other
15 relevant information.

16 (4) Consult with, and fully consider input from, the Public
17 Utilities Commission when the consolidation would involve a water
18 corporation subject to the commission's jurisdiction.

19 (5) Consult with, and fully consider input from, the local
20 government with land use planning authority over the affected
21 area, particularly regarding any information in the general plan
22 required by Section 65302.10 of the Government Code.

23 (6) Notify the potentially receiving water system and the
24 potentially subsumed water system, if any, and establish a
25 reasonable deadline of no less than six months, unless a shorter
26 period is justified, for the potentially receiving water system and
27 the potentially subsumed water system, if any, to negotiate
28 consolidation or another means of providing an adequate supply
29 of safe drinking water.

30 (A) During this period, the State Water Resources Control Board
31 shall provide technical assistance and work with the potentially
32 receiving water system and the potentially subsumed water system
33 to develop a financing package that benefits both the receiving
34 water system and the subsumed water system.

35 (B) Upon a showing of good cause, the deadline may be
36 extended by the State Water Resources Control Board at the
37 request of the potentially receiving water system, potentially
38 subsumed water system, or the local agency formation commission
39 with jurisdiction over the potentially subsumed water system.

1 (7) Obtain written consent from any domestic well owner for
2 consolidation or extension of service. Any affected resident within
3 the consolidation or extended service area who does not provide
4 written consent shall be ineligible, until the consent is provided,
5 for any future water-related grant funding from the state other
6 than funding to mitigate a well failure, disaster, or other
7 emergency.

8 (8) Hold at least one public meeting at the initiation of this
9 process in a place as close as feasible to the affected areas. The
10 State Water Resources Control Board shall make reasonable efforts
11 to provide a 30-day notice of the meeting to the ratepayers, renters,
12 and property owners to receive water service through service
13 extension or in the area of the subsumed water system and all
14 affected local government agencies and drinking water service
15 providers. The meeting shall provide representatives of the
16 potentially subsumed water system, affected ratepayers, renters,
17 property owners, and the potentially receiving water system an
18 opportunity to present testimony. The meeting shall provide an
19 opportunity for public comment.

20 (c) Upon expiration of the deadline set by the State Water
21 Resources Control Board pursuant to paragraph (6) of subdivision
22 (b), the State Water Resources Control Board shall do the
23 following:

24 (1) Consult with the potentially receiving water system and the
25 potentially subsumed water system, if any.

26 (2) Conduct a public hearing, in a location as close as feasible
27 to the affected communities.

28 (A) The State Water Resources Control Board shall make
29 reasonable efforts to provide a 30-day notice of the hearing to the
30 ratepayers, renters, and property owners to receive water service
31 through service extension or in the area of the subsumed water
32 system and to all affected local government agencies and drinking
33 water service providers.

34 (B) The hearing shall provide representatives of the potentially
35 subsumed water system, affected ratepayers, renters, property
36 owners, and the potentially receiving water system an opportunity
37 to present testimony.

38 (C) The hearing shall provide an opportunity for public
39 comment.

1 (d) Prior to ordering consolidation or extension of service, the
2 State Water Resources Control Board shall find all of the
3 following:

4 (1) The potentially subsumed water system has consistently
5 failed to provide an adequate supply of safe drinking water.

6 (2) All reasonable efforts to negotiate consolidation or extension
7 of service were made.

8 (3) Consolidation of the receiving water system and subsumed
9 water system or extension of service is appropriate and technically
10 and economically feasible.

11 (4) There is no pending local agency formation commission
12 process that is likely to resolve the problem in a reasonable amount
13 of time.

14 (5) Concerns regarding water rights and water contracts of the
15 subsumed and receiving water systems have been adequately
16 addressed.

17 (6) Consolidation or extension of service is the most effective
18 and cost-effective means to provide an adequate supply of safe
19 drinking water.

20 (7) The capacity of the proposed interconnection needed to
21 accomplish the consolidation is limited to serving the current
22 customers of the subsumed water system.

23 (e) Upon ordering consolidation or extension of service, the
24 State Water Resources Control Board shall do all of the following:

25 (1) As necessary and appropriate, make funds available, upon
26 appropriation by the Legislature, to the receiving water system
27 for the costs of completing the consolidation or extension of
28 service, including, but not limited to, replacing any capacity lost
29 as a result of the consolidation or extension of service, providing
30 additional capacity needed as a result of the consolidation or
31 extension of service, and legal fees. Funding pursuant to this
32 paragraph is available for the general purpose of providing
33 financial assistance for the infrastructure needed for the
34 consolidation or extension of service and does not need to be
35 specific to each individual consolidation project. The State Water
36 Resources Control Board shall provide appropriate financial
37 assistance for the infrastructure needed for the consolidation or
38 extension of service. The State Water Resources Control Board's
39 existing financial assistance guidelines and policies shall be the
40 basis for the financial assistance.

1 (2) *Ensure payment of standard local agency formation*
2 *commission fees caused by State Water Resources Control*
3 *Board-ordered consolidation or extension of service.*

4 (3) *Adequately compensate the owners of a privately owned*
5 *subsumed water system for the fair market value of the system as*
6 *determined by the Public Utilities Commission for water*
7 *corporations subject to the commission's jurisdiction or the State*
8 *Water Resources Control Board for all other water systems.*

9 (4) *Coordinate with the appropriate local agency formation*
10 *commission and other relevant local agencies to facilitate the*
11 *change of organization or reorganization.*

12 (f) *For the purposes of this section, the consolidated water*
13 *system shall not increase charges on existing customers of the*
14 *receiving water system solely as a consequence of the consolidation*
15 *or extension of service unless the customers receive a*
16 *corresponding benefit.*

17 (g) *Division 3 (commencing with Section 56000) of Title 5 of*
18 *the Government Code shall not apply to the consolidation or*
19 *extension of service required pursuant to this section.*

20 *SEC. 4. Section 116684 is added to the Health and Safety Code,*
21 *to read:*

22 *116684. (a) Liability of a consolidated water system,*
23 *wholesaler, or any other agency in the chain of distribution that*
24 *delivers water to a consolidated water system shall be limited as*
25 *described in this section.*

26 (b) (1) *The consolidated water system, wholesaler, or any other*
27 *agency in the chain of distribution that delivers water to a*
28 *consolidated water system, shall not be held liable for claims by*
29 *past or existing customers or those who consumed water provided*
30 *through the subsumed water system concerning the operation and*
31 *supply of water from the subsumed water system during the interim*
32 *operation period specified in subdivision (d) for any good faith,*
33 *reasonable effort using ordinary care to assume possession of, to*
34 *operate, or to supply water to the subsumed water system.*

35 (2) *The consolidated water system, wholesaler, or any other*
36 *agency in the chain of distribution that delivers water to a*
37 *consolidated water system, shall not be held liable for claims by*
38 *past or existing customers or by those who consumed water*
39 *provided through the subsumed water system for any injury that*

1 *occurred prior to the commencement of the interim operation*
2 *period specified in subdivision (d).*

3 *(c) (1) The consolidated water system, wholesaler, or any other*
4 *agency in the chain of distribution that delivers water to a*
5 *consolidated water system, shall not be held liable for claims by*
6 *past or existing customers or by those who consumed water*
7 *provided through the subsumed water system concerning the*
8 *provision of supplemental imported water supplies to the subsumed*
9 *water system during the interim operation period specified in*
10 *subdivision (d) for any good faith, reasonable effort using ordinary*
11 *care to supply water to the subsumed water system.*

12 *(2) The consolidated water system, wholesaler, or any other*
13 *agency in the chain of distribution that delivers water to a*
14 *consolidated water system, shall not be held liable for claims by*
15 *past or existing customers or by those who consumed water*
16 *provided through the subsumed water system concerning the*
17 *operation and supply of water from the subsumed water system*
18 *for any injury that occurred prior to the commencement of the*
19 *interim operation period specified in subdivision (d).*

20 *(3) This subdivision shall only apply if the water supplied by*
21 *the consolidated water system through a temporary potable service*
22 *pipeline to the subsumed water system meets or exceeds federal*
23 *and state drinking water quality standards.*

24 *(d) (1) The interim operation period shall commence upon the*
25 *connection of a temporary potable service pipeline by the*
26 *consolidated water system to the subsumed water system, or upon*
27 *the execution of an agreement between the consolidated water*
28 *system, subsumed water system, and any other signatories to*
29 *provide service to the customers of the subsumed water system,*
30 *whichever occurs first.*

31 *(2) (A) Except as provided in subparagraph (B), the interim*
32 *operation period shall last until permanent replacement facilities*
33 *are accepted by the consolidated water system with the*
34 *concurrence of the State Water Resources Control Board and the*
35 *facilities and water supply meet drinking water and water quality*
36 *standards.*

37 *(B) Upon the showing of good cause, the interim operation*
38 *period shall be extended by the State Water Resources Control*
39 *Board for up to three successive one-year periods at the request*
40 *of the consolidated water system.*

1 (3) *The acceptance date of permanent replacement facilities*
2 *shall be publicly noticed by the consolidated water system.*

3 (e) *Subdivision (b) shall only apply if the consolidated water*
4 *system provides water to the subsumed water system in accordance*
5 *with all of the following conditions:*

6 (1) *Water provided by the consolidated water system through*
7 *a temporary potable service pipeline to the subsumed water system*
8 *shall meet or exceed federal and state drinking water quality*
9 *standards.*

10 (2) *Reasonable water system flow and pressure through a*
11 *temporary potable service pipeline shall be maintained during the*
12 *interim operation period based upon the condition and integrity*
13 *of the existing subsumed water system, and any disruptions to*
14 *water delivery resulting from construction-related activities*
15 *associated with the installation of permanent replacement facilities*
16 *shall be minimal.*

17 (3) *The consolidated water system shall notify fire officials*
18 *serving the subsumed water system service area of the condition*
19 *and firefighting support capabilities of the subsumed water system*
20 *and planned improvements with the installation of permanent*
21 *replacement facilities thereto. The consolidated water system shall*
22 *maintain or improve the condition and firefighting support*
23 *capabilities of the subsumed water system during the interim*
24 *operation period.*

25 (4) *Customers of the subsumed water system shall receive*
26 *written notice upon any change in possession, control, or operation*
27 *of the water system.*

28 (f) *Nothing in this section shall be construed to do any of the*
29 *following:*

30 (1) *Relieve any water district, water wholesaler, or any other*
31 *entity from complying with any provision of federal or state law*
32 *pertaining to drinking water quality.*

33 (2) *Impair any cause of action by the Attorney General, a district*
34 *attorney, a city attorney, or any other public prosecutor, or impair*
35 *any other action or proceeding brought by or on behalf of a*
36 *regulatory agency.*

37 (3) *Impair any claim alleging the taking of property without*
38 *compensation within the meaning of either the Fifth Amendment*
39 *to the United States Constitution or Section 19 of Article I of the*
40 *California Constitution.*

1 *SEC. 5. The Legislature finds and declares all of the following:*

2 *(a) Section 7 of Article XI of the California Constitution*
3 *authorizes a county or city to “make and enforce within its limits*
4 *all local, police, sanitary, and other ordinances and regulations*
5 *not in conflict with general laws.”*

6 *(b) The California Supreme Court has held that local regulations*
7 *affecting economic interests in property are within local*
8 *governments’ police power (Birkenfeld v. City of Berkeley (1976)*
9 *17 Cal.3d 129, 158).*

10 *(c) Counties may reasonably regulate land use under their police*
11 *powers (Associated Home Builders etc., Inc., v. City of Livermore*
12 *(1976) 18 Cal.3d 582).*

13 *(d) Counties may regulate groundwater, including well*
14 *permitting, under their police powers (Baldwin v. County of*
15 *Tehama (1994) 31 Cal.App.4th 166, 175-76), and numerous*
16 *counties have exercised this authority through ordinances.*

17 *(e) The Legislature enacted the Sustainable Groundwater*
18 *Management Act (Part 2.74 (commencing with Section 10720) of*
19 *Division 6 of the Water Code) to ensure that local agencies manage*
20 *their high- and medium-priority groundwater basins sustainably.*
21 *That act does not require the adoption of local groundwater*
22 *sustainability plans until 2020 or 2022. Under the act, counties*
23 *retain their authority to issue well permits.*

24 *(f) As local agencies are transitioning to the implementation of*
25 *the Sustainable Groundwater Management Act, unregulated well*
26 *permitting in stressed high- and medium-priority groundwater*
27 *basins during the ongoing drought emergency is causing risks to*
28 *the health, safety, and well-being of citizens.*

29 *SEC. 6. Section 21080.08 is added to the Public Resources*
30 *Code, to read:*

31 21080.08. *(a) This division does not apply to a project that*
32 *satisfies both of the following:*

33 *(1) The project is approved or carried out by a public agency*
34 *for the purpose of mitigating drought conditions for which a state*
35 *of emergency was proclaimed by the Governor on January 17,*
36 *2014, pursuant to Chapter 7 (commencing with Section 8550) of*
37 *Division 1 of Title 2 of the Government Code.*

38 *(2) The project consists of construction or expansion of recycled*
39 *water pipeline and directly related infrastructure within existing*
40 *rights of way, and directly related groundwater replenishment, if*

1 *the project does not affect wetlands or sensitive habitat, and where*
2 *the construction impacts are fully mitigated consistent with*
3 *applicable law.*

4 *(b) This section shall remain operative until the state of*
5 *emergency due to drought conditions declared by the Governor*
6 *in the proclamation issued on January 17, 2014, has expired or*
7 *until January 1, 2017, whichever occurs first, and as of January*
8 *1, 2017, is repealed unless a subsequent statute amends or repeals*
9 *that date.*

10 *SEC. 7. Section 21080.45 is added to the Public Resources*
11 *Code, to read:*

12 *21080.45. (a) This division does not apply to the development*
13 *and approval of building standards by state agencies for recycled*
14 *water systems.*

15 *(b) This section shall become inoperative on July 1, 2017, and,*
16 *as of January 1, 2018, is repealed, unless a later enacted statute,*
17 *that becomes operative on or before January 1, 2018, deletes or*
18 *extends the dates on which it becomes inoperative and is repealed.*

19 *SEC. 8. Section 21080.46 is added to the Public Resources*
20 *Code, to read:*

21 *21080.46. (a) Without limiting any other statutory exemption*
22 *or categorical exemption, this division does not apply to the*
23 *adoption of an ordinance by a city, county, or city and county to*
24 *limit or prohibit the drilling of new or deeper groundwater wells,*
25 *or to limit or prohibit increased extractions from existing*
26 *groundwater wells, through stricter conditions on the issuance of*
27 *well permits or changes in the intensity of land use that would*
28 *increase demand on groundwater.*

29 *(b) (1) This section shall remain operative until July 1, 2017,*
30 *or so long as the state of emergency due to drought conditions*
31 *declared by the Governor in the proclamation of a state of*
32 *emergency issued on January 17, 2014, remains in effect,*
33 *whichever is later.*

34 *(2) This section is repealed on January 1 of the year following*
35 *the date on which this section becomes inoperative.*

36 *(c) Notwithstanding subdivision (a) or (b), this section does not*
37 *apply to either of the following:*

38 *(1) The issuance of any permit for a new or deeper groundwater*
39 *well by a city, county, or city and county.*

1 (2) *The adoption of any ordinance affecting or relating to new*
2 *residential, commercial, institutional, or industrial projects or any*
3 *mix of these uses, or any change in the intensity or use of land for*
4 *these purposes, if that project or change in use requires approval*
5 *by a city, county, or city and county. Nor does this section apply*
6 *to the adoption of any ordinance that would limit or prohibit new*
7 *or deeper groundwater wells, or increased extraction from existing*
8 *groundwater wells, that may be needed to serve these projects.*

9 *SEC. 9. Section 375 of the Water Code is amended to read:*

10 375. (a) Notwithstanding any other ~~provision of the law~~, any
11 public entity ~~which~~ *that* supplies water at retail or wholesale for
12 the benefit of persons within the service area or area of jurisdiction
13 of the public entity may, by ordinance or resolution adopted by a
14 majority of the members of the governing body after holding a
15 public hearing upon notice and making appropriate findings of
16 necessity for the adoption of a water conservation program, adopt
17 and enforce a water conservation program to reduce the quantity
18 of water used by those persons for the purpose of conserving the
19 water supplies of the public entity.

20 (b) With regard to water delivered for other than agricultural
21 uses, the ordinance or resolution may specifically require the
22 installation of water-saving devices ~~which~~ *that* are designed to
23 reduce water consumption. The ordinance or resolution may also
24 encourage water conservation through rate structure design.

25 (c) For the purposes of this ~~section~~, *chapter*, “public entity”
26 means a city, whether general law or chartered, county, city and
27 county, special district, agency, authority, any other municipal
28 public corporation or district, or any other political subdivision of
29 the state.

30 (d) *For the purposes of this section and subdivisions (b) and*
31 *(c) of Section 377, “person” means any person, firm, association,*
32 *organization, partnership, business, trust, corporation, company,*
33 *or public agency, including any city, county, city and county,*
34 *district, joint powers authority, or any agency or department of a*
35 *public agency.*

36 *SEC. 10. Section 375.5 of the Water Code is amended to read:*

37 375.5. (a) A public ~~entity, as defined by Section 375~~, *entity*
38 may undertake water conservation and public education programs
39 in conjunction with school districts, public libraries, or any other
40 public entity.

1 (b) (1) A public entity may undertake water conservation and
2 public education programs using an information booklet or
3 materials for use in connection with the use or transfer of real
4 estate containing up to four residential units. For the purposes of
5 this subdivision, the public entity may use water conservation
6 materials prepared by the department.

7 (2) It is the intent of the Legislature that on or before December
8 31, 2007, a review of the program be conducted to obtain
9 information on both of the following matters:

10 (A) The extent to which public entities have undertaken water
11 conservation and public education programs referred to in
12 paragraph (1).

13 (B) The extent to which water conservation may be attributable
14 to the implementation of water conservation and public education
15 programs referred to in paragraph (1).

16 (c) A public entity may take into account any programs
17 undertaken pursuant to this section in a rate structure design
18 implemented pursuant to Section 375.

19 (d) The Legislature finds and declares that a program undertaken
20 pursuant to this section is in the public interest, serves a public
21 purpose, and will promote the health, welfare, and safety of the
22 people of the state.

23 *SEC. 11. Section 377 of the Water Code is amended to read:*

24 377. (a) From and after the publication or posting of any
25 ordinance or resolution pursuant to Section 376, violation of a
26 requirement of a water conservation program adopted pursuant to
27 Section 376 is a misdemeanor. ~~Upon conviction thereof such person~~
28 *A person convicted under this subdivision shall be punished by*
29 *imprisonment in the county jail for not more than 30 days, or by*
30 *fine not exceeding one thousand dollars (\$1,000), or by both.*

31 (b) *A court or public entity may hold a person civilly liable in*
32 *an amount not to exceed ten thousand dollars (\$10,000) for a*
33 *violation of any of the following:*

34 (1) *An ordinance or resolution adopted pursuant to Section 376.*

35 (2) *An emergency regulation adopted by the board under Section*
36 *1058.5, unless the board regulation provides that it cannot be*
37 *enforced under this section.*

38 (c) *Commencing on the 31st day after the public entity notified*
39 *a person of a violation described in subdivision (b), the person*
40 *additionally may be civilly liable in an amount not to exceed ten*

1 thousand dollars (\$10,000) plus five hundred dollars (\$500) for
2 each additional day on which the violation continues.

3 (d) Remedies prescribed in this section are cumulative and not
4 alternative, except that no liability shall be recoverable under this
5 section for any violation of paragraph (2) of subdivision (b) if the
6 board has filed a complaint pursuant to Section 1846 alleging the
7 same violation.

8 (e) A public entity may administratively impose the civil liability
9 described in subdivisions (b) and (c) after providing notice and
10 an opportunity for a hearing. The public entity shall initiate a
11 proceeding under this subdivision by a complaint issued pursuant
12 to Section 377.5. The public entity shall issue the complaint at
13 least 30 days before the hearing on the complaint and the
14 complaint shall state the basis for the proposed civil liability order.

15 (f) (1) In determining the amount of civil liability to assess, a
16 court or public entity shall take into consideration all relevant
17 circumstances, including, but not limited to, the nature and
18 persistence of the violation, the extent of the harm caused by the
19 violation, the length of time over which the violation occurs, and
20 any corrective action taken by the violator.

21 (2) The civil liability calculated pursuant to paragraph (1) for
22 the first violation of subdivision (b) by a residential water user
23 shall not exceed one thousand dollars (\$1,000) except in
24 extraordinary situations where the court or public entity finds all
25 of the following:

26 (A) The residential user had actual notice of the requirement
27 found to be violated.

28 (B) The conduct was intentional.

29 (C) The amount of water involved was substantial.

30 (g) Civil liability imposed pursuant to this section shall be paid
31 to the public entity and expended solely for the purposes of this
32 chapter.

33 (h) An order setting administrative civil liability shall become
34 effective and final upon issuance of the order and payment shall
35 be made. Judicial review of any final order shall be pursuant to
36 Section 1094.5 of the Code of Civil Procedure.

37 (i) In addition to the remedies prescribed in this section, a public
38 entity may enforce water use limitations established by an
39 ordinance or resolution adopted pursuant to this chapter, or as

1 otherwise authorized by law, by a volumetric penalty in an amount
2 established by the public entity.

3 SEC. 12. Section 377.5 is added to the Water Code, to read:

4 377.5. (a) A complaint or citation under subdivision (b) of
5 Section 377 or subdivision (d) of Section 1058.5 may be issued by
6 any of the following:

7 (1) A code enforcement officer, as defined in Section 829.5 of
8 the Penal Code.

9 (2) A designee of the chief executive officer of a public entity
10 authorized to adopt an ordinance or resolution under Section 375.

11 (3) A designee of the chief executive officer of a city, county, or
12 city and county.

13 (b) For purposes of this section, the term “chief executive
14 officer” includes a city manager, general manager, or other
15 employee of the public entity who is the highest ranking officer or
16 employee, other than a member of a multimember governing body,
17 with responsibility for the operations of the public entity.

18 SEC. 13. Section 1058.5 of the Water Code is amended to read:

19 1058.5. (a) This section applies to any emergency regulation
20 adopted by the board for which the board makes both of the
21 following findings:

22 (1) The emergency regulation is adopted to prevent the waste,
23 unreasonable use, unreasonable method of use, or unreasonable
24 method of diversion, of water, to promote water recycling or water
25 conservation, to require curtailment of diversions when water is
26 not available under the diverter’s priority of right, or in furtherance
27 of any of the foregoing, to require reporting of diversion or use or
28 the preparation of monitoring reports.

29 (2) The emergency regulation is adopted in response to
30 conditions which exist, or are threatened, in a critically dry year
31 immediately preceded by two or more consecutive below normal,
32 dry, or critically dry years or during a period for which the
33 Governor has issued a proclamation of a state of emergency under
34 the California Emergency Services Act (Chapter 7 (commencing
35 with Section 8550) of Division 1 of Title 2 of the Government
36 Code) based on drought conditions.

37 (b) Notwithstanding Sections 11346.1 and 11349.6 of the
38 Government Code, any findings of emergency adopted by the
39 board, in connection with the adoption of an emergency regulation

1 under this section, are not subject to review by the Office of
2 Administrative Law.

3 (c) An emergency regulation adopted by the board under this
4 section may remain in effect for up to 270 days, as determined by
5 the board, and is deemed repealed immediately upon a finding by
6 the board that due to changed conditions it is no longer necessary
7 for the regulation to remain in effect. An emergency regulation
8 adopted by the board under this section may be renewed if the
9 board determines that the conditions specified in paragraph (2) of
10 subdivision (a) are still in effect.

11 (d) In addition to any other applicable civil or criminal penalties,
12 any person or entity who violates a regulation adopted by the board
13 pursuant to this section is guilty of an infraction punishable by a
14 fine of up to five hundred dollars (\$500) for each day in which the
15 violation occurs.

16 (e) (1) *Notwithstanding subdivision (b) of Section 1551,*
17 *subdivision (d) of Section 1845, and subdivision (f) of Section*
18 *1846, a civil liability imposed under Chapter 12 (commencing*
19 *with Section 1825) of Part 2 of Division 2 by the board or a court*
20 *for a violation of an emergency conservation regulation adopted*
21 *pursuant to this section shall be deposited, and separately*
22 *accounted for, in the Water Rights Fund. Funds deposited in*
23 *accordance with this subdivision shall be available, upon*
24 *appropriation, for water conservation activities and programs.*

25 (2) *For purposes of this subdivision, an “emergency*
26 *conservation regulation” means an emergency regulation that*
27 *requires an end user of water, a water retailer, or a water*
28 *wholesaler to conserve water or report to the board on water*
29 *conservation. Water conservation includes restrictions or*
30 *limitations on particular uses of water or a reduction in the amount*
31 *of water used or served, but does not include curtailment of*
32 *diversions when water is not available under the diverter’s priority*
33 *of right or reporting requirements related to curtailments.*

34 SEC. 14. *Section 1552 of the Water Code is amended to read:*

35 1552. ~~The money~~ *Except as provided in subdivision (e) of*
36 *Section 1058.5, moneys in the Water Rights Fund is are available*
37 *for expenditure, upon appropriation by the Legislature, for the*
38 *following purposes:*

39 (a) *For expenditure by the State Board of Equalization in the*
40 *administration of this chapter and the Fee Collection Procedures*

1 Law (Part 30 (commencing with Section 55001) of Division 2 of
 2 the Revenue and Taxation Code) in connection with any fee or
 3 expense subject to this chapter.

4 (b) For the payment of refunds, pursuant to Part 30 (commencing
 5 with Section 55001) of Division 2 of the Revenue and Taxation
 6 Code, of fees or expenses collected pursuant to this chapter.

7 (c) For expenditure by the board for the purposes of carrying
 8 out this division, Division 1 (commencing with Section 100), Part
 9 2 (commencing with Section 10500) and Chapter 11 (commencing
 10 with Section 10735) of Part 2.74 of Division 6, and Article 7
 11 (commencing with Section 13550) of Chapter 7 of Division 7.

12 (d) For expenditures by the board for the purposes of carrying
 13 out Sections 13160 and 13160.1 in connection with activities
 14 involving hydroelectric power projects subject to licensing by the
 15 Federal Energy Regulatory Commission.

16 (e) For expenditures by the board for the purposes of carrying
 17 out Sections 13140 and 13170 in connection with plans and policies
 18 that address the diversion or use of water.

19 *SEC. 15. Article 3 (commencing with Section 1840) is added*
 20 *to Chapter 12 of Part 2 of Division 2 of the Water Code, to read:*

21

22 *Article 3. Monitoring and Reporting*

23

24 *1840. (a) (1) Except as provided in subdivision (b), a person*
 25 *who, on or after January 1, 2016, diverts 10 acre-feet of water per*
 26 *year or more under a permit or license shall install and maintain*
 27 *a device or employ a method capable of measuring the rate of*
 28 *direct diversion, rate of collection to storage, and rate of*
 29 *withdrawal or release from storage. The measurements shall be*
 30 *made using the best available technologies and best professional*
 31 *practices, as defined in Section 5100, using a device or methods*
 32 *satisfactory to the board, as follows:*

33 *(A) A device shall be capable of continuous monitoring of the*
 34 *rate and quantity of water diverted and shall be properly*
 35 *maintained. The permittee or licensee shall provide the board with*
 36 *evidence that the device has been installed with the first report*
 37 *submitted after installation of the device. The permittee or licensee*
 38 *shall provide the board with evidence demonstrating that the device*
 39 *is functioning properly as part of the reports submitted at five-year*

1 *intervals after the report documenting installation of the device,*
2 *or upon request of the board.*

3 *(B) In developing regulations pursuant to Section 1841, the*
4 *board shall consider devices and methods that provide accurate*
5 *measurement of the total amount diverted and the rate of diversion.*
6 *The board shall consider devices and methods that provide*
7 *accurate measurements within an acceptable range of error,*
8 *including the following:*

9 *(i) Electricity records dedicated to a pump and recent pump*
10 *test.*

11 *(ii) Staff gage calibrated with an acceptable streamflow rating*
12 *curve.*

13 *(iii) Staff gage calibrated for a flume or weir.*

14 *(iv) Staff gage calibrated with an acceptable storage capacity*
15 *curve.*

16 *(v) Pressure transducer and acceptable storage capacity curve.*

17 *(2) The permittee or licensee shall maintain a record of all*
18 *diversion monitoring that includes the date, time, and diversion*
19 *rate at time intervals of one hour or less, and the total amount of*
20 *water diverted. These records shall be included with reports*
21 *submitted under the permit or license, as required under*
22 *subdivision (c), or upon request of the board.*

23 *(b) (1) The board may modify the requirements of subdivision*
24 *(a) upon finding either of the following:*

25 *(A) That strict compliance is infeasible, is unreasonably*
26 *expensive, would unreasonably affect public trust uses, or would*
27 *result in the waste or unreasonable use of water.*

28 *(B) That the need for monitoring and reporting is adequately*
29 *addressed by other conditions of the permit or license.*

30 *(2) The board may increase the 10-acre-foot reporting threshold*
31 *of subdivision (a) in a watershed or subwatershed, after*
32 *considering the diversion reporting threshold in relation to quantity*
33 *of water within the watershed or subwatershed. The board may*
34 *increase the 10-acre-foot reporting threshold to 25 acre-feet or*
35 *above if it finds that the benefits of the additional information*
36 *within the watershed or subwatershed are substantially outweighed*
37 *by the cost of installing measuring devices or employing methods*
38 *for measurement for diversions at the 10-acre-foot threshold.*

1 (c) At least annually, a person who diverts water under a
2 registration, permit, or license shall report to the board the
3 following information:

4 (1) The quantity of water diverted by month.

5 (2) The maximum rate of diversion by months in the preceding
6 calendar year.

7 (3) The information required by subdivision (a), if applicable.

8 (d) Compliance with the applicable requirements of this section
9 is a condition of every registration, permit, or license.

10 1841. (a) The board may adopt regulations requiring
11 measurement and reporting of water diversion and use by either
12 of the following:

13 (1) Persons authorized to appropriate water under a permit,
14 license, registration for small domestic, small irrigation, or
15 livestock stockpond use, or certification for livestock stockpond
16 use.

17 (2) Persons required to comply with measurement and reporting
18 regulations pursuant to subparagraph (B) of paragraph (1) of
19 subdivision (e) of Section 5103.

20 (b) The initial regulations that the board adopts pursuant to
21 this section shall be adopted as emergency regulations in
22 accordance with Chapter 3.5 (commencing with Section 11340)
23 of Part 1 of Division 3 of Title 2 of the Government Code. The
24 adoption of the initial regulations is an emergency and shall be
25 considered by the Office of Administrative Law as necessary for
26 the immediate preservation of the public peace, health, safety, and
27 general welfare. Notwithstanding Chapter 3.5 (commencing with
28 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
29 Code, any emergency regulations adopted under this section shall
30 remain in effect until revised by the board.

31 (c) The adoption of the initial regulations pursuant to this article
32 is exempt from Division 13 (commencing with Section 21000) of
33 the Public Resources Code.

34 SEC. 16. Section 1846 of the Water Code is amended to read:

35 1846. (a) A person or entity may be liable for a violation of
36 any of the following in an amount not to exceed five hundred
37 dollars (\$500) for each day in which the violation occurs:

38 (1) A term or condition of a permit, license, certificate, or
39 registration issued under this division.

1 (2) A regulation adopted by the board under Section 1058.5 or
2 an order adopted by the board.

3 (b) Civil liability may be imposed by the superior court. The
4 Attorney General, upon the request of the board, shall petition the
5 superior court to impose, assess, and recover those sums.

6 (c) Civil liability may be imposed administratively by the board
7 pursuant to Section 1055.

8 (d) In determining the appropriate amount of civil liability, the
9 court, pursuant to subdivision (b), or the board, pursuant to
10 subdivision (c), may take into consideration all relevant
11 circumstances, including, but not limited to, the extent of harm
12 caused by the violation, the nature and persistence of the violation,
13 the length of time over which the violation occurs, and the
14 corrective action, if any, taken by the violator.

15 (e) No liability shall be recoverable under this section for any
16 violation for which liability is recovered under Section 1052.

17 (f) All funds recovered pursuant to this section shall be deposited
18 in the Water Rights Fund established pursuant to Section 1550.

19 ~~(g) This section applies only in a critically dry year immediately
20 preceded by two or more consecutive below normal, dry, or
21 critically dry years or during a period for which the Governor has
22 issued a proclamation of a state of emergency under the California
23 Emergency Services Act (Chapter 7 (commencing with Section
24 8550) of Division 1 of Title 2 of the Government Code) based on
25 drought conditions.~~

26 *SEC. 17. Section 5103 of the Water Code is amended to read:*

27 5103. Each statement shall be prepared on a form provided by
28 the board. The statement shall include all of the following
29 information:

30 (a) The name and address of the person who diverted water and
31 of the person filing the statement.

32 (b) The name of the stream or other source from which water
33 was diverted, and the name of the next major stream or other body
34 of water to which the source is tributary.

35 (c) The place of diversion. The location of the diversion works
36 shall be depicted on a specific United States Geological Survey
37 topographic map, or shall be identified using the California
38 Coordinate System, or latitude and longitude measurements. If
39 assigned, the public land description to the nearest 40-acre
40 subdivision and the assessor's parcel number shall also be provided.

1 (d) The capacity of the diversion works and of the storage
2 reservoir, if any, and the months in which water was used during
3 the preceding calendar year.

4 (e) (1) ~~On and after January 1, 2012, monthly (A) At least~~
5 ~~monthly~~ records of water diversions. The measurements of the
6 diversion shall be made ~~using best available technologies and best~~
7 ~~professional practices. Nothing in this paragraph shall be construed~~
8 ~~to require the implementation of technologies or practices by a~~
9 ~~person who provides to the board documentation demonstrating~~
10 ~~that the implementation of those practices is not locally cost~~
11 ~~effective. in accordance with Section 1840.~~

12 (B) (i) *On and after July 1, 2016, the measurement of a*
13 *diversion of 10 acre-feet or more per year shall comply with*
14 *regulations adopted by the board pursuant to Article 3*
15 *(commencing with Section 1840) of Chapter 12 of Part 2.*

16 (ii) *The requirement of clause (i) is extended to January 1, 2017,*
17 *for any statement filer that enters into a voluntary agreement that*
18 *is acceptable to the board to reduce the statement filer's diversions*
19 *during the 2015 irrigation season.*

20 (2) (A) The terms of, and eligibility for, any grant or loan
21 awarded or administered by the department, the board, or the
22 California Bay-Delta Authority on behalf of a person that is subject
23 to paragraph (1) shall be conditioned on compliance with that
24 paragraph.

25 (B) Notwithstanding subparagraph (A), the board may determine
26 that a person is eligible for a grant or loan even though the person
27 is not complying with paragraph (1), if both of the following apply:

28 (i) The board determines that the grant or loan will assist the
29 grantee or loan recipient in complying with paragraph (1).

30 (ii) The person has submitted to the board a one-year schedule
31 for complying with paragraph (1).

32 (C) It is the intent of the Legislature that the requirements of
33 this subdivision shall complement and not affect the scope of
34 authority granted to the board by provisions of law other than this
35 article.

36 (f) The purpose of use.

37 (g) A general description of the area in which the water was
38 used. The location of the place of use shall be depicted on a specific
39 United States Geological Survey topographic map and on any other
40 maps with identifiable landmarks. If assigned, the public land

1 description to the nearest 40-acre subdivision and the assessor's
2 parcel number shall also be provided.

3 (h) The year in which the diversion was commenced as near as
4 is known.

5 *SEC. 18. Section 5104 of the Water Code is amended to read:*

6 5104. (a) Supplemental statements shall be filed ~~at three-year~~
7 ~~intervals, prior to annually, before July 1 of year next succeeding~~
8 ~~the end of each three-year interval.~~ *each year.* They shall contain
9 the quantity of water diverted and the rate of diversion by months
10 in ~~each of the preceding three calendar years~~ *year* and any change
11 in the other information contained in the preceding statement.

12 (b) If there is a change in the name or address of the person
13 diverting the water, a supplemental statement shall be filed with
14 the board that includes the change in name or address.

15 (c) *A supplemental statement filed prior to July 1, 2016, shall*
16 *include data satisfying the requirements of subdivision (a) for any*
17 *diversion of water in the 2012, 2013, and 2014 calendar years,*
18 *that was not reported in a supplemental statement submitted prior*
19 *to July 1, 2015.*

20 (d) *This section does not limit the authority of the board to*
21 *require additional information or more frequent reporting under*
22 *any other law.*

23 *SEC. 19. Section 79708.5 is added to the Water Code, to read:*

24 79708.5. *In addition to the information required pursuant to*
25 *Section 79708, in order to facilitate oversight of funding and*
26 *projects, the secretary shall post on the Natural Resources*
27 *Agency's Internet Web site information on changes to project*
28 *timelines and project spending.*

29 *SEC. 20. Section 79716.5 is added to the Water Code, to read:*

30 79716.5. *Each state agency that receives an appropriation of*
31 *funding made available by this division shall do the following:*

32 (a) *Evaluate the outcomes of projects funded by this division.*

33 (b) *Include in the agency's reporting pursuant to Section 79716*
34 *the evaluation described in subdivision (a).*

35 (c) *Hold a grantee of funds accountable for completing projects*
36 *funded by this division on time and within scope.*

37 *SEC. 21. The sum of ten million dollars (\$10,000,000) available*
38 *in the CalConserve Water Use Efficiency Revolving Fund from*
39 *the proceeds of bonds issued pursuant to Division 26.7*

1 *(commencing with Section 79700) of the Water Code, is hereby*
2 *appropriated for the purpose of Section 81023 of the Water Code.*
3 *SEC. 22. No reimbursement is required by this act pursuant*
4 *to Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*
12 *SEC. 23. This act is a bill providing for appropriations related*
13 *to the Budget Bill within the meaning of subdivision (e) of Section*
14 *12 of Article IV of the California Constitution, has been identified*
15 *as related to the budget in the Budget Bill, and shall take effect*
16 *immediately.*
17 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
18 ~~changes relating to the Budget Act of 2015.~~

AMENDED IN SENATE JUNE 1, 2015
AMENDED IN SENATE APRIL 23, 2015
AMENDED IN SENATE MARCH 23, 2015

SENATE BILL

No. 239

Introduced by Senator Hertzberg

February 17, 2015

An act to amend Sections 56017.2 and 56133 of, and to add Section 56134 to, the Government Code, relating to local services.

LEGISLATIVE COUNSEL'S DIGEST

SB 239, as amended, Hertzberg. Local services: contracts: fire protection services.

Existing law prescribes generally the powers and duties of the local agency formation commission in each county with respect to the review approval or disapproval of proposals for changes of organization or reorganization of cities and special districts within that county. Existing law permits a city or district to provide extended services, as defined, outside its jurisdictional boundaries only if it first requests and receives written approval from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.

This bill ~~would~~ *would, with certain exceptions*, permit a public agency to exercise new or extended services outside the public agency's current service area pursuant to a fire protection ~~reorganization~~ contract, as defined, only if the public agency receives written approval from the local agency formation commission in the affected county. The bill

would require that the legislative body of a public agency that is not a state agency adopt a resolution of application and submit the resolution along with a plan for services, as provided, and that a proposal by a state agency be initiated by the director of the agency with the approval of the ~~Governor~~. *Director of Finance*. The bill would require, prior to adopting the resolution or submitting the proposal, the public agency to enter into a written agreement for the performance of new or extended services pursuant to a fire protection ~~reorganization~~ contract ~~with~~ *with, or provide written notice of a proposed fire protection contract to*, each affected public agency and recognized employee organization representing firefighters in the affected ~~area~~ *area*, and to conduct a public hearing on the resolution.

The bill would require the commission to approve or disapprove the proposal as specified. The bill would require the commission to consider, among other things, a comprehensive fiscal analysis prepared by the executive officer in accordance with specified requirements.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 56017.2 of the Government Code is
- 2 amended to read:
- 3 56017.2. "Application" means any of the following:
- 4 (a) A resolution of application or petition initiating a change of
- 5 organization or reorganization with supporting documentation as
- 6 required by the commission or executive officer.
- 7 (b) A request for a sphere of influence amendment or update
- 8 pursuant to Section 56425.
- 9 (c) A request by a city or district for commission approval of
- 10 an extension of services outside the agency's jurisdictional
- 11 boundaries pursuant to Section 56133 or 56134.

1 SEC. 2. Section 56133 of the Government Code is amended
2 to read:

3 56133. (a) A city or district may provide new or extended
4 services by contract or agreement outside its jurisdictional
5 boundaries only if it first requests and receives written approval
6 from the commission in the affected county.

7 (b) The commission may authorize a city or district to provide
8 new or extended services outside its jurisdictional boundaries but
9 within its sphere of influence in anticipation of a later change of
10 organization.

11 (c) The commission may authorize a city or district to provide
12 new or extended services outside its jurisdictional boundaries and
13 outside its sphere of influence to respond to an existing or
14 impending threat to the public health or safety of the residents of
15 the affected territory if both of the following requirements are met:

16 (1) The entity applying for the contract approval has provided
17 the commission with documentation of a threat to the health and
18 safety of the public or the affected residents.

19 (2) The commission has notified any alternate service provider,
20 including any water corporation as defined in Section 241 of the
21 Public Utilities Code, or sewer system corporation as defined in
22 Section 230.6 of the Public Utilities Code, that has filed a map and
23 a statement of its service capabilities with the commission.

24 (d) The executive officer, within 30 days of receipt of a request
25 for approval by a city or district of a contract to extend services
26 outside its jurisdictional boundary, shall determine whether the
27 request is complete and acceptable for filing or whether the request
28 is incomplete. If a request is determined not to be complete, the
29 executive officer shall immediately transmit that determination to
30 the requester, specifying those parts of the request that are
31 incomplete and the manner in which they can be made complete.
32 When the request is deemed complete, the executive officer shall
33 place the request on the agenda of the next commission meeting
34 for which adequate notice can be given but not more than 90 days
35 from the date that the request is deemed complete, unless the
36 commission has delegated approval of those requests to the
37 executive officer. The commission or executive officer shall
38 approve, disapprove, or approve with conditions the contract for
39 extended services. If the contract is disapproved or approved with

1 conditions, the applicant may request reconsideration, citing the
2 reasons for reconsideration.

3 (e) This section does not apply to any of the following:

4 (1) Contracts or agreements solely involving two or more public
5 agencies where the public service to be provided is an alternative
6 to, or substitute for, public services already being provided by an
7 existing public service provider and where the level of service to
8 be provided is consistent with the level of service contemplated
9 by the existing service provider.

10 (2) Contracts for the transfer of nonpotable or nontreated water.

11 (3) Contracts or agreements solely involving the provision of
12 surplus water to agricultural lands and facilities, including, but not
13 limited to, incidental residential structures, for projects that serve
14 conservation purposes or that directly support agricultural
15 industries. However, prior to extending surplus water service to
16 any project that will support or induce development, the city or
17 district shall first request and receive written approval from the
18 commission in the affected county.

19 (4) An extended service that a city or district was providing on
20 or before January 1, 2001.

21 (5) A local publicly owned electric utility, as defined by Section
22 9604 of the Public Utilities Code, providing electric services that
23 do not involve the acquisition, construction, or installation of
24 electric distribution facilities by the local publicly owned electric
25 utility, outside of the utility’s jurisdictional boundaries.

26 (6) A fire protection ~~reorganization~~ contract, as defined in
27 subdivision (a) of Section 56134.

28 SEC. 3. Section 56134 is added to the Government Code, to
29 read:

30 56134. (a) (1) For the purposes of this section, “fire protection
31 ~~reorganization~~ contract” means a contract or agreement for the
32 exercise of new or extended fire protection services outside a public
33 agency’s current service area, as authorized by Chapter 4
34 (commencing with Section 55600) of Part 2 of Division 2 of Title
35 5 of this code or by Article 4 (commencing with Section 4141) of
36 Chapter 1 of Part 2 of Division 4 of the Public Resources Code,
37 that does either of the following:

38 (A) Transfers responsibility for providing services in more than
39 25 percent of the service area of any public agency affected by the
40 contract or agreement.

1 (B) Changes the employment status of more than 25 percent of
2 the employees of any public agency affected by the contract or
3 agreement.

4 (2) A contract or agreement for the exercise of new or extended
5 fire protection services outside a public agency's current service
6 area, as authorized by Chapter 4 (commencing with Section 55600)
7 of Part 2 of Division 2 of Title 5 of this code or Article 4
8 (commencing with Section 4141) of Chapter 1 of Part 2 of Division
9 4 of the Public Resources Code, that, in combination with other
10 contracts or agreements, would produce the results described in
11 subparagraph (A) or (B) of paragraph (1), shall be deemed a fire
12 protection ~~reorganization~~ contract for the purposes of this section.

13 (b) Notwithstanding Section 56133, a public agency may provide
14 new or extended services pursuant to a fire protection
15 ~~reorganization~~ contract only if it first requests and receives written
16 approval from the commission in the affected county pursuant to
17 the requirements of this section.

18 (c) A request by a public agency for commission approval of
19 *new or extended* services provided ~~under~~ *pursuant to* a fire
20 protection ~~reorganization~~ contract shall be made by the adoption
21 of a resolution of application as follows:

22 (1) In the case of a public agency that is not a state agency, the
23 application shall be initiated by the adoption of a resolution of
24 application by the legislative body of the public agency proposing
25 to provide new or extended services outside the public agency's
26 current service area.

27 (2) In the case of a public agency that is a state agency, the
28 application shall be initiated by the director of the state agency
29 proposing to provide new or extended services outside the agency's
30 current service area and be approved by the ~~Governor~~. *Director*
31 *of Finance*.

32 (d) The legislative body of a public agency or the director of a
33 state agency shall not submit a resolution of application pursuant
34 to this section unless both of the following occur:

35 (1) The public agency ~~obtains~~ *does either of the following*:

36 (A) *Obtains* and submits with the resolution a written agreement
37 validated and executed by each affected public agency and
38 recognized employee organization that represents firefighters of
39 the existing and proposed service providers consenting to the
40 proposed ~~change of organization~~. *fire protection contract*.

1 (B) Provides, at least 30 days prior to the hearing held pursuant
2 to paragraph (2), written notice to each affected public agency
3 and recognized employee organization that represents firefighters
4 of the existing and proposed service providers of the proposed fire
5 protection contract and submits a copy of each written notice with
6 the resolution of application. The notice shall, at minimum, include
7 a full copy of the proposed contract.

8 (2) The public agency conducts an open and public hearing on
9 the resolution, conducted pursuant to the Ralph M. Brown Act
10 (Chapter 9 (commencing with Section 54950) of Part 1 of Division
11 2 of Title 5) or the Bagley-Keene Open Meeting Act (Article 9
12 (commencing with Section 11120) of Chapter 1 of Part 1 of
13 Division 3 of Title 2), as applicable.

14 (e) A resolution of application submitted pursuant to this section
15 ~~must shall~~ be submitted with a ~~fire services reorganization contract~~
16 ~~plan that conforms to the requirements of Section 56653.~~ The plan
17 *which* shall include all of the following information:

18 (1) The total estimated cost to provide the new or extended fire
19 protection services in the affected territory.

20 (2) The estimated cost of the new or extended fire protection
21 services to customers in the affected territory.

22 (3) An identification of existing service providers, if any, of the
23 new or extended services proposed to be provided and the potential
24 fiscal impact to the customers of those existing providers.

25 (4) A plan for financing the exercise of the new or extended fire
26 protection services in the affected territory.

27 (5) Alternatives for the exercise of the new or extended fire
28 protection services in the affected territory.

29 (6) *An enumeration and description of the new or extended fire*
30 *protection services proposed to be extended to the affected*
31 *territory.*

32 (7) *The level and range of new or extended fire protection*
33 *services.*

34 (8) *An indication of when the new or extended fire protection*
35 *services can feasibly be extended to the affected territory.*

36 (9) *An indication of any improvements or upgrades to structures,*
37 *roads, sewer or water facilities, or other conditions the public*
38 *agency would impose or require within the affected territory if the*
39 *fire protection contract is completed.*

1 (f) The applicant shall cause to be prepared by contract an
2 independent comprehensive fiscal analysis to be submitted with
3 the application pursuant to this section. The analysis shall review
4 and ~~document~~: *document all of the following*:

5 (1) The costs to the public agency that has proposed to provide
6 new or extended fire protection services during the three fiscal
7 years following a public agency entering into a fire protection
8 ~~reorganization~~ contract, in accordance with the following
9 requirements:

10 (A) The analysis ~~must~~ *shall* include all direct and indirect cost
11 impacts to the existing service provider in the affected territory.

12 (B) The analysis ~~must~~ *shall* review how the costs of the existing
13 service provider compare to the costs of services provided in
14 service areas with similar populations and of similar geographic
15 size that provide a similar level and range of services and ~~shall~~
16 make a reasonable determination of the costs expected to be borne
17 by the public agency providing new or extended fire protection
18 services.

19 (2) The revenues of the public agency that has proposed ~~a new~~
20 or extended fire protection services outside its current service area
21 during the three fiscal years following the effective date of a
22 contract or agreement with another public agency to provide a new
23 or extended service.

24 (3) The effects on the costs and revenues of any affected public
25 agency, including the public agency proposing to provide the new
26 or extended fire protection services, during the three fiscal years
27 that the new or extended fire protection services will be provided.

28 (4) Any other information and analysis needed to support the
29 findings required by subdivision (j).

30 (g) The clerk of the legislative body of a public agency or the
31 director of a state agency adopting a resolution of application
32 pursuant to this section shall file a certified copy of the resolution
33 with the executive officer.

34 (h) (1) The executive officer, within 30 days of receipt of a
35 public agency's request for approval of a fire protection
36 ~~reorganization~~ contract, shall determine whether the request is
37 complete and acceptable for filing or whether the request is
38 incomplete. If a request does not comply with the requirements of
39 subdivision (d), the executive officer shall determine that the
40 request is incomplete. If a request is determined ~~not to be complete~~,

1 *incomplete*, the executive officer shall immediately transmit that
2 determination to the requester, specifying those parts of the request
3 that are incomplete and the manner in which they can be made
4 complete. When the request is deemed complete, the executive
5 officer shall place the request on the agenda of the next commission
6 meeting for which adequate notice can be given but not more than
7 90 days from the date that the request is deemed complete.

8 (2) The commission shall approve, disapprove, or approve with
9 conditions the contract for *new or* extended services following the
10 hearing at the commission meeting, as provided in paragraph (1).
11 If the contract is disapproved or approved with conditions, the
12 applicant may request reconsideration, citing the reasons for
13 reconsideration.

14 (i) (1) The commission shall not approve an application for
15 approval of a fire protection ~~reorganization~~ contract unless the
16 commission determines that the public agency will have sufficient
17 revenues to carry out the exercise of the new or extended fire
18 protection services outside its current area, except as specified in
19 paragraph (2).

20 (2) The commission may approve an application for approval
21 of a fire protection ~~reorganization~~ contract where the commission
22 has determined that the public agency will not have sufficient
23 revenue to provide the proposed new or different functions or class
24 of services, if the commission conditions its approval on the
25 concurrent approval of sufficient revenue sources pursuant to
26 Section 56886. In approving a proposal, the commission shall
27 provide that, if the revenue sources pursuant to Section 56886 are
28 not approved, the authority of the public agency to provide new
29 or extended fire protection services shall not be exercised.

30 (j) The commission shall not approve an application for approval
31 of a fire protection ~~reorganization~~ contract unless the commission
32 finds, based on the entire record, all of the following:

33 (1) The proposed exercise of new or extended fire protection
34 services outside a public agency's current service area is consistent
35 with the intent of this division, including, but not limited to, the
36 policies of Sections 56001 and 56300.

37 (2) The commission has reviewed the comprehensive fiscal
38 analysis prepared pursuant to subdivision (f).

39 (3) The commission has reviewed any testimony presented at
40 the public hearing.

1 (4) The proposed affected territory is expected to receive
2 revenues sufficient to provide public services and facilities and a
3 reasonable reserve during the three fiscal years following the
4 effective date of the contract or agreement between the public
5 agencies to provide *a the* new or extended fire protection services.

6 (k) At least 21 days prior to the date of the hearing, the executive
7 officer shall give mailed notice of that hearing to each affected
8 local agency or affected county, and to any interested party who
9 has filed a written request for notice with the executive officer. In
10 addition, at least 21 days prior to the date of that hearing, the
11 executive officer shall cause notice of the hearing to be published
12 in accordance with Section 56153 in a newspaper of general
13 circulation that is circulated within the territory affected by the
14 proposal proposed to be adopted and shall post the notice of the
15 hearing on the commission's Internet Web site.

16 (l) The commission may continue from time to time any hearing
17 called pursuant to this section. The commission shall hear and
18 consider oral or written testimony presented by any affected local
19 agency, affected county, or any interested person who appears at
20 any hearing called and held pursuant to this section.

21 (m) *This section shall not be construed to abrogate a public*
22 *agency's obligations under the Meyers-Millias-Brown Act (Chapter*
23 *10 (commencing with Section 3500) of Division 4 of Title 1).*

24 *SEC. 4. The Legislature finds and declares that, with respect*
25 *to fire protection contracts subject to this act, the provisions of*
26 *this act are not intended to change, alter, or in any way affect the*
27 *existing jurisdiction of a local agency formation commission over*
28 *proceedings that involve the provision of prehospital emergency*
29 *medical services.*

30 ~~SEC. 4.~~

31 *SEC. 5.* The Legislature finds and declares that Section 3 of
32 this act, which adds Section 56134 to the Government Code,
33 furthers, within the meaning of paragraph (7) of subdivision (b)
34 of Section 3 of Article I of the California Constitution, the purposes
35 of that constitutional section as it relates to the right of public
36 access to the meetings of local public bodies or the writings of
37 local public officials and local agencies. Pursuant to paragraph (7)
38 of subdivision (b) of Section 3 of Article I of the California
39 Constitution, the Legislature makes the following findings:

1 This act provides for notice to the public in accordance with
2 existing provisions of the Cortese-Knox-Hertzberg Local
3 Government Reorganization Act of 2000 and will ensure that the
4 right of public access to local agency meetings is protected.

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